

PCT COOPERATION TREATY

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NOTIFICATION OF ELECTION

(PCT Rule 61.2)

From the INTERNATIONAL BUREAU

To:

Assistant Commissioner for Patents
United States Patent and Trademark
Office
Box PCT
Washington, D.C.20231
ETATS-UNIS D'AMERIQUE

in its capacity as elected Office

Date of mailing (day/month/year) 22 May 2000 (22.05.00)	
International application No. PCT/US99/24925	Applicant's or agent's file reference 7823/VB
International filing date (day/month/year) 22 October 1999 (22.10.99)	Priority date (day/month/year) 23 October 1998 (23.10.98)
Applicant TRINH, Toan et al	

1. The designated Office is hereby notified of its election made:

☒ in the demand filed with the International Preliminary Examining Authority on:

02 May 2000 (02.05.00)

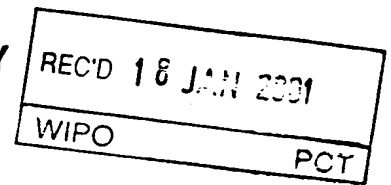
☐ in a notice effecting later election filed with the International Bureau on:
2. The election ☒ was
☐ was not

made before the expiration of 19 months from the priority date or, where Rule 32 applies, within the time limit under Rule 32.2(b).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No.: (41-22) 740.14.35	Authorized officer Claudio Borton Telephone No.: (41-22) 338.83.38
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PATENT COOPERATION TREATY

PCT



INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

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Applicant's or agent's file reference 7823/VB	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/US99/24925	International filing date (day/month/year) 22/10/1999	Priority date (day/month/year) 23/10/1998
International Patent Classification (IPC) or national classification and IPC C11D3/37		
Applicant THE PROCTER & GAMBLE COMPANY et al.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.



2. This REPORT consists of a total of 8 sheets, including this cover sheet.

- ☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☒ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☒ Certain defects in the international application
- VIII ☒ Certain observations on the international application

Date of submission of the demand 02/05/2000	Date of completion of this report 16.01.2001
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized officer Klier, E Telephone No. +49 89 2399 8531 

INTERNATIONAL SEARCH REPORT

1. International application No.
PCT/US 99/24925

Box I Observations where certain claims were found unsearchable (Continuation of item 1 of first sheet)

This International Search Report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons:

1. ☐ Claims Nos.:
because they relate to subject matter not required to be searched by this Authority, namely:
2. ☒ Claims Nos.: 1,28
because they relate to parts of the International Application that do not comply with the prescribed requirements to such an extent that no meaningful International Search can be carried out, specifically:
see FURTHER INFORMATION sheet PCT/ISA/210
3. ☐ Claims Nos.:
because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a).

Box II Observations where unity of invention is lacking (Continuation of item 2 of first sheet)

This International Searching Authority found multiple inventions in this international application, as follows:

1. ☐ As all required additional search fees were timely paid by the applicant, this International Search Report covers all searchable claims.
2. ☐ As all searchable claims could be searched without effort justifying an additional fee, this Authority did not invite payment of any additional fee.
3. ☐ As only some of the required additional search fees were timely paid by the applicant, this International Search Report covers only those claims for which fees were paid, specifically claims Nos.:
4. ☐ No required additional search fees were timely paid by the applicant. Consequently, this International Search Report is restricted to the invention first mentioned in the claims; it is covered by claims Nos.:

Remark on Protest

- ☐ The additional search fees were accompanied by the applicant's protest.
- ☐ No protest accompanied the payment of additional search fees.

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

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I. Basis of the report

1. This report has been drawn on the basis of *(substitute sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments (Rules 70.16 and 70.17).):*

Description, pages:

1-61 as originally filed

Claims, No.:

1-51 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)):

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(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

IV. Lack of unity of invention

1. In response to the invitation to restrict or pay additional fees the applicant has:

- ☐ restricted the claims.
- ☐ paid additional fees.
- ☐ paid additional fees under protest.
- ☐ neither restricted nor paid additional fees.

2. ☒ This Authority found that the requirement of unity of invention is not complied and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.

3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is

- ☐ complied with.
- ☒ not complied with for the following reasons:
see separate sheet

4. Consequently, the following parts of the international application were the subject of international preliminary examination in establishing this report:

- ☒ all parts.
- ☐ the parts relating to claims Nos. .

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims 6-9,14-21,35-37
	No: Claims 1-5, 10-13, 22-34, 38-51
Inventive step (IS)	Yes: Claims 14-21
	No: Claims 1-13,22-51
Industrial applicability (IA)	Yes: Claims 1-51
	No: Claims

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2. Citations and explanations
see separate sheet

VII. Certain defects in the international application

The following defects in the form or contents of the international application have been noted:
see separate sheet

VIII. Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:
see separate sheet

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EXAMINATION REPORT - SEPARATE SHEET**

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Ad section IV.:

The subject-matter of independent claims 1, 28, 31, 32, 41, 43, 44 and 46 is already known (see the grounds for this objection under section V.). The requisite unity of invention (Rule 13.1 PCT) therefore no longer exists inasmuch as a technical relationship involving one or more of the same or corresponding special technical features in the sense of Rule 13.2 PCT does not exist among the different types of used fabric colour care actives.

The following separate inventions have thus been identified:

- A. Use of polysaccharides as fabric colour care actives (claims 1 to 19 and 27 to 51).
- B. Use of proteins as fabric colour care actives (claims 1 to 14, 20, 21 and 27 to 51).
- C. Use of glycolipids as fabric colour care actives (claims 1 to 14, and 25 to 51).
- D. Use of water soluble or water dispersible synthetic polymers as fabric colour care actives (claims 1 to 13, 22-24 and 27 to 51).
- E. Use of phospholipids as fabric colour care actives (claims 1 to 13 and 25 to 51).
- F. Use of sorbitan esters as fabric colour care actives (claims 1 to 13 and 25 to 51).
- G. Use of fabric softening actives as fabric colour care actives (claims 1 to 13 and 25 to 51).

Ad section V.:

The following documents are cited herein:

D1= WO-A-98/17757
D2= WO-A-96/21714
D3= WO-A-98/20098
D4= WO-A-94/11482
D5= EP-A-0488750
D6= US-A-3372048

In the light of the present description it must be assumed that the use of a fabric colour care active of the type used in the present application necessarily brings about the

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EXAMINATION REPORT - SEPARATE SHEET**

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change of properties of claim 1.

A method for restoring or rejuvenating colour of worn, faded colour fabric by means of a fabric colour care active of the same type as used in the present application was already known from the prior art, e.g. D1 (claims, examples, page 2, line 6 to page 6, line 5), D2 (claims, page 3, lines 14 to 23, examples), D3 (claims and examples), D4 (claims, examples and page 3, lines 10 to 22), D5 (claims, examples and page 3, lines 1 to 47) and D6 (claims, examples and column 2, lines 3 to 41).

Therefore the subject-matter of claims 1, 28, 31, 32, 41, 43, 44 and 46 lacks novelty (Article 33(2) PCT).

The additional features of claims 2 to 5, 10 to 13, 22-27, 29, 30, 33, 34, 38-40, 42, 45 and 47-51 are disclosed in the above-mentioned documents, especially in D1.

In this respect, instructions for use must necessarily be associated to a product put on the market and they must explain the use of the product and necessarily contain pictures or icons, e.g. for identification of the producer. Therefore, all these features are inherently disclosed in the above cited prior art, which relates to industrially applicable compositions.

In the light of D1 it was moreover obvious to use alternative spraying devices. Therefore, the subject-matter of claims 6-9 and 35-37 does not involve an inventive step (Article 33(3) PCT).

None of the documents D1 - D6 discloses the restoring and/or rejuvenating properties of the colour care actives as claimed in claims 14 - 21. Hence, they comply with the requirements of Art. 33(2) and (3) PCT.

Ad section VII.:

Independent claims are not in the two-part form in accordance with Rule 6.3(b) PCT, which in the present case would be appropriate, with those features known in combination from the prior art (one of documents D1 to D6) being placed in a preamble (Rule 6.3(b)(i) PCT) and with the remaining features being included in a characterising part (Rule 6.3(b)(ii) PCT).

Independent claims should therefore be redrafted accordingly. If, however, the

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EXAMINATION REPORT - SEPARATE SHEET**

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applicant is of the opinion that the two-part form would be inappropriate, then reasons therefor should be provided in the letter of reply.

Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the documents D1 to D6 is not mentioned in the description, nor are these documents identified therein.

The present application comprises an exceedingly great number of claims, which does not appear to be justified by the real scope of the invention. Thus, the set of claims should be redrafted with a minimum of independent claims (Rule 6.1(a) PCT) and taking into account the requirements of unity of invention (Rule 13.1 PCT).

Metric units should be used beside "psig" and "inch" on page 49 (Rule 10.1(a) PCT).

If the names "Preventol", "Bronopol", "Kathon" (this name being also used throughout the examples), "Proxel" and "Promexal" on page 43 are trade marks, they should be indicated as such.

Ad section VIII.:

Claims 1 and 28 are unclear, insofar as they characterise the claimed subject-matter by the result to be achieved and not by the chemical characteristics of the essential fabric colour care active.

The wordings "substituted versions" and "derivatised versions", referred to polymers in claims 2, 14, 17, 18, 29 are unclear insofar, as they do not identify precisely the type of derivatives falling within the scope of these claims.

Moreover, the word "about" referred to numerical values in the claims detracts from the clarity of such claims.

The wordings "globular proteins" and "fibrous proteins" in claim 20 are unclear insofar, as they do not identify precisely the type of derivatives falling within the scope of these

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claims.

The wording "highly unsaturated" in claim 26 is also unclear.